

**Title 20 – DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 700 –Insurance Licensing
Chapter 1 – Insurance Producers**

PROPOSED RULE

20 CSR 700-1.148 Reasonable Supervision in Fixed, Indexed or Other Covered Annuity Sales

PURPOSE: This rule implements the requirements of sections 375.141.1(8) and 375.143, RSMo, with respect to the demonstration of incompetence, untrustworthiness or financial irresponsibility by producers in the offer, sale or exchange of variable life and variable annuity products.

(1) The standards of conduct codified in this rule reflect the professionalism of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Individual Producers. Each individual producer, prior to recommending or selling any Covered Annuity contract to any person, shall be under a supervisory system meeting the standards pursuant to this rule by either an authorized insurer in this state or a qualified third party under contract with the insurer.

(B) Supervisory System.

1. An insurer issuing annuity contracts in this state shall assure that a system to supervise producers, which is reasonably designed to achieve compliance with Rule 20 CSR 700-1.146(1)(B), is established and maintained under this rule. A supervisory system shall provide, at a minimum, for the following:

A. The establishment and maintenance of written procedures reasonably designed to detect and prevent violations of Rule 20 CSR 700-1.146(1)(B); and

B. Conducting periodic reviews of records that are reasonably designed to detect and prevent violations of Rule 20 CSR 700-1.146(1)(B).

2. An insurer may establish and maintain such a system directly, or may contract with a third party, including a general agent or independent agency (“Supervising Entity”), to establish and maintain a system of supervision as required under this rule.

3. An insurer, which elects to contract with a Supervising Entity, shall make reasonable inquiry to assure that the Supervising Entity maintains licensure as a business entity producer with the department and is performing the supervisory functions under this rule, and shall immediately report to the director any failure to perform the functions as required by this rule.

4. A Supervising Entity contracted to establish and maintain the supervisory system required by this rule shall hold an effective license as a business entity producer with the director.

5. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

A. Annually obtain a certification from the Supervising Entity that the Supervising Entity holds an effective license as a business entity producer;

B. Annually obtain a certification from the Supervising Entity senior manager who has the responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent that the Supervising Entity is performing the functions as required by paragraph 1 of this rule; and

C. Based on reasonable selection criteria, periodically select Supervising Entities contracting under this rule for a review to determine whether the Supervising Entity is performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

6. A Supervising Entity contracted to establish and maintain the supervisory system required by this rule shall promptly, when requested by the insurer pursuant to paragraph 5, give certification as provided in paragraph 5 or immediately report to the insurer and the director in writing it is unable to meet the certification criteria.

(C) Supervising Entity as a Business Entity Producer. The failure of any Supervising Entity contracted to establish and maintain the supervisory system required by this rule, to establish and maintain written procedures and policies reasonably designed to detect and prevent violations of Rule 20 CSR 700-1.146(1)(B), shall be subject to discipline or disqualification under section 375.141, RSMo for failure to comply with this conduct rule and for materially aiding individual producers in failing to comply with Rule 20 CSR 700-1.146(1)(B).

(D) Recordkeeping. Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the document.

1. Suitability Records. An insurance producer shall maintain records of the information collected from the customer and other information used in making any recommendation of a Covered Annuity for five years after the insurance transaction is completed by the insurer. Pursuant to its duty to supervise a Supervising Entity or insurer may perform this obligation to maintain records.

2. Supervision Records. An insurer or a Supervising Entity shall maintain records related to actions performed pursuant to the supervisory system as implemented under this rule for three (3) years from the date of each action performed pursuant to its system.

(2) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.

AUTHORITY: Section 374.045, 375.141, and 375.143, RSMo (2000).

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500.00) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500.00) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on February 7, 2008. The public hearing will be held at the Harry S. Truman State Office Building, 301 West High Street, Room 530, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support or in opposition to the proposed rule, until 5:00 p.m. on February 7, 2008. Written statements shall be sent to Tamara Kopp, Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five working days prior to the hearing.